

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Leonard M. Patt
Application No. : 10/627,193
Filed : July 24, 2003
For : COMPOSITIONS CONTAINING PEPTIDE COPPER
COMPLEXES AND PHYTOCHEMICAL COMPOUNDS, AND
METHODS RELATED THERETO

Examiner : Michael V. Meller
Art Unit : 1655
Docket No. : 480048.456
Date : April 5, 2007

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO SECOND SUPPLEMENTAL RESTRICTION REQUIREMENT

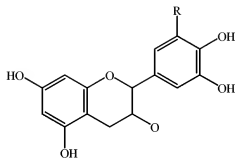
Commissioner for Patents:

In response to the Second Supplemental Restriction Requirement dated February 22, 2007, please extend the period of time for response one month, to expire on April 22, 2007. Enclosed are a Petition for an Extension of Time and submission of the requisite fee.

By Office Communication mailed February 22, 2007, the Examiner has requested that Applicant enumerate all of the components to be in the elected composition. Applicant thanks the Examiner for the teleconference with Applicant's representative to clarify the intention of this further Communication – namely, that the Examiner's request is a further Restriction, not an election of species.

In response, Applicant hereby elects, with traverse, a composition comprising the peptide copper complex glycyl-histidyl-lysine:copper(II) and the phytochemical compound epigallocatechin. Although an application may properly be restricted to one of two or more claimed inventions if they are able to support separate patents and they are either independent or distinct, if a search and examination of all the claims can be made without serious burden, then the Examiner must examine them on the merits, even though they include claims to independent or distinct inventions (MPEP 803).

Applicant submits that it would not present a serious burden to examine the embodiment presently recited in independent claim 1; namely, an embodiment wherein the phytochemical compound is “catechin, a catechin derivative, or a mixture thereof.” In this regard, Applicant notes that, as set forth on pages 10-13 of the present application, such compounds all have the following core structure:



wherein R is –H or –OH. Applicant submits that a search of a genus of compounds comprising the foregoing core structure would not pose a serious burden on the Examiner.

In addition, Applicant submits that it would not pose a serious burden on the Examiner to search compositions comprising further components in addition to the foregoing peptide copper complex and phytochemical compounds, as recited in pending claims 31-41. In this regard, any search for a composition comprising the foregoing peptide copper complex and phytochemical compounds would necessarily uncover any compositions which also comprise such further components.

Accordingly, Applicant respectfully requests that the Restriction Requirement be withdrawn and all the pending claims be examined. In making the above arguments, Applicant does not admit that any of the embodiments are obvious in light of one another.

As further discussed in the teleconference with Applicant's representative, the Examiner is also requiring that Applicant elect a specific form of administration of the composition. This further requirement is an election of species, not a further Restriction. In response, Applicant hereby elects, for purposes of initial examination only, the embodiment wherein the composition is in the form of a lotion. Claims 1, 5-7, 23-28, 33-41 are generic to this species, while claim 42 reads thereon.

As a final matter, if Applicant has misunderstood the Examiner's request, Applicant asks that the Examiner contact the undersigned at (206) 622-4900 to resolve the same. In view of the above, consideration of the pending claims is respectfully requested.

Respectfully submitted,

Leonard M. Patt

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